



U.S. Department
of Transportation

**Federal Highway
Administration**

Washington Division

Suite 501 Evergreen Plaza
711 South Capitol Way
Olympia, Washington 98501-1284
(360) 753-9480
(360) 753-9889 (FAX)
<http://www.fhwa.dot.gov/wadiv>

February 4, 2011

HDA-WA/

Ms. Paula J. Hammond
Secretary of Transportation
Department of Transportation
Olympia, Washington

Attention: Steve Reinmuth

DBE Certification Program Concerns

Dear Ms. Hammond:

Our review of the Washington State Department of Transportation's (WSDOT) Office of Equal Opportunity's report, *Office of Minority and Women's Business Enterprise (OMWBE) Program Certification Review, dated June 23*, raises serious concerns about the certification and recertification of disadvantaged business enterprise (DBE) contractors working on Federal-aid projects in Washington State. WSDOT's report details significant issues with OMWBE's management of the entire certification program including adequacy of the certification reviews, timeliness of reviews, limited on-site inspections, no approved written procedures, limited training for personnel, and general stewardship of the DBE certification process. Your report's findings bring into question OMWBE's ability to adequately perform its role and responsibility as the Unified Certification Program (UCP) entity. As the Federal agency responsible for ensuring compliance with Federal requirements in the delivery of the Federal-aid highway program we have an obligation to ensure that all applicable laws and regulations are met. Failure to meet applicable laws and regulations could jeopardize future Federal-aid participation on construction projects. As such, we are asking WSDOT to assure us that the DBE contractors working on Federal-aid projects in Washington State are properly certified.

While we commend WSDOT for taking several positive steps to enhance other areas of the DBE utilization program, including making the certified list of DBE contractors easier to use, certification issues undermine our confidence in the program. We recognize that WSDOT does not have direct control of the certification process. However, WSDOT has the responsibility to ensure compliance with all Federal requirements for using Federal-aid on construction contracts regardless of who does contractor certification. Our *Federal-Aid Highway Program Stewardship and Oversight Agreement* states that as part of the preparation of the Plans, Specification and Estimate (PS&E) the DBE program requirements (49 CFR part 26) will be met. Since FHWA is



ultimately responsible for ensuring compliance with Federal requirements, we ask WSDOT to develop an action plan and timeline to address the certification issues noted in your report and which will give us the confidence that WSDOT will meet its obligations under the Stewardship Agreement. Please submit the action plan to our office by March 1, 2011.

The action plan should address the short term issues relating to the certification of DBE contractors and include long term strategies on how the certification program will be better managed in the future. The action plan should specifically address the following issues:

- 1) Adequacy of the certification reviews performed;
- 2) Timeliness of certification and re-certification reviews performed;
- 3) Written procedures and guidance;
- 4) Limited training for personnel; and
- 5) General stewardship of the DBE certification process.

As noted previously, failure to satisfactorily address our concerns could result in the loss of Federal-aid on future construction projects in Washington State.

We are available to assist you thru technical and program assistance in resolving these issues.

Sincerely,

A handwritten signature in black ink that reads "Daniel M. Mathis". The signature is written in a cursive, flowing style.

DANIEL M. MATHIS, P.E.
Division Administrator

Cc: Brenda Nnambi, Director, WSDOT OEO